MAIL STOP RESPONSE
Attorney Docket No. 25822

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

MECKING et al.

Serial No.:	10/714,552	Group Art Unit: 1614
Filed:	November 17, 2003	Examiner: Kwon, Brian
For:	**MEDICAL-TECHNOLOGY PRODUCT, PROCESS FOR ITS PRODUCTION AND USE**	

RESPONSE TO RESTRICTION/ELECTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Official Action dated April 4, 2007, due for reply by May 4, 2007. Thus, this Response is timely filed within the one-month period for response set by the Examiner.

SUMMARY OF RESTRICTION REQUIREMENT

The Examiner has required restriction of claims 1-33 to one of the following Invention Groups under 35 U.S.C. § 121:

I. Claims 1-25, drawn to a product; or

II. Claim 26-33, drawn to a process of making said product.

As the basis for this restriction requirement, the Official Action states the following:

> Inventions I and II are related as process of making and product made. The inventions are distinct if either or both can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the process as claimed can be used to make another and materially different products (e.g., USP 2005/058844 and US 2005/008676).
>
> Because these inventions are independent or distinct for the reasons given above and the inventions require a different field of search (See MPEP § 808.02), restriction for examination purposes is proper.

The Examiner has further required, under 35 U.S.C. § 121, a single disclosed species from each of the following:

(i) a branched amphiphilic macromolecules; and

(ii) a metal nanoparticle.

ELECTION

Applicants provisionally elect **Group I, claims 1-25**, drawn to a product and the species of (i) **polyethyleneimine** for a branched amphiphilic macromolecule; and (ii) **silver nanoparticles** for a metal nanoparticle.

Claims 1 and 21 are generic, with claims 1-25 are readable upon the elected subject matter.

TRAVERSAL

Applicants respectfully traverse the Examiner's restriction requirement for the following reasons:

First, the restriction requirement is traversed because it omits "an appropriate explanation" as to the existence of a "serious burden" if a restriction were not required. See MPEP 803. Regardless of any differences that may exist between the inventions set forth in the claims of Inventions I-II, a complete and thorough search for the invention set forth in any one of the inventions would require searching the art areas appropriate to the other inventions. All of the inventions are directed to medical products or how to make or use the medical product. As the Examiner concedes, invention groups I and II fall under the same class and subclass. Since a search of each of the claims of inventions I and II would be coextensive, it would not be a serious burden upon the Examiner to examine all of the claims in this application.

Furthermore, Applicants have paid a filing fee for an examination of all the claims in this application. If the Examiner refuses to examine the claims paid for when filing this application and persists in requiring Applicants to file divisional applications for each of the groups of claims, the Examiner would essentially be forcing Applicants to pay duplicative fees for the non-elected or withdrawn claims, inasmuch as the original filing fees for the claims (which would be later prosecuted in divisional applications) are not refundable.

CONCLUSION

In view of the foregoing, Applicants respectfully request the Examiner to reconsider and withdraw the restriction requirement, and to examine all of the claims pending in this application.

If the Examiner has any questions or comments regarding this matter, he is welcomed to contact the undersigned attorney at the below-listed number and address.

Respectfully submitted,

THE NATH LAW GROUP

Gary M. Nath
Reg. No. 26,965
Tanya E. Harkins
Reg. No. 52,993
Customer No. 20529

Date: May 7, 2007

THE NATH LAW GROUP
112 S. West St.
Alexandria, VA 22314
Tel: (703) 548-6284